

AMENDED IN SENATE MARCH 29, 2012

SENATE BILL

No. 1335

Introduced by Senator Pavley

February 24, 2012

An act to ~~add Section 34177.1 to~~ *amend Sections 34177, 34180, and 34181* of the Health and Safety Code, relating to redevelopment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1335, as amended, Pavley. Redevelopment: brownfield sites.

Existing law dissolved redevelopment agencies and community development agencies, as of February 1, 2012, and provides for the designation of successor agencies, as defined. Existing law imposes various requirements on successor agencies and subjects successor agency actions to the review of oversight boards. Existing law requires successor agencies to wind down the affairs of the dissolved redevelopment agencies and to, among other things, dispose of assets and properties of the former redevelopment agencies, as directed by the oversight board. Existing law requires proceeds from the sale of assets that are no longer needed to be transferred to the county auditor-controller for distribution as property tax proceeds to taxing entities, as prescribed.

~~This bill would, notwithstanding the above provisions, authorize a successor agency to retain land of the former redevelopment agency that is a brownfield site, as defined, and is either on or immediately adjacent to land previously developed for qualified urban uses, as defined. The bill would, upon appropriation by the Legislature, authorize the successor agency to develop the land if the associated development project meets specified requirements.~~ *for specified remediation or removal purposes using available financing, funds, and grants. Upon*

completion of remediation, the bill would require the successor agency to dispose of the land pursuant to existing asset disposition provisions. The bill would make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 34177 of the Health and Safety Code is*
2 *amended to read:*

3 34177. Successor agencies are required to do all of the
4 following:

5 (a) Continue to make payments due for enforceable obligations.

6 (1) On and after February 1, 2012, and until a Recognized
7 Obligation Payment Schedule becomes operative, only payments
8 required pursuant to an enforceable obligations payment schedule
9 shall be made. The initial enforceable obligation payment schedule
10 shall be the last schedule adopted by the redevelopment agency
11 under Section 34169. However, payments associated with
12 obligations excluded from the definition of enforceable obligations
13 by paragraph (2) of subdivision (e) of Section 34171 shall be
14 excluded from the enforceable obligations payment schedule and
15 be removed from the last schedule adopted by the redevelopment
16 agency under Section 34169 prior to the successor agency adopting
17 it as its enforceable obligations payment schedule pursuant to this
18 subdivision. The enforceable obligation payment schedule may
19 be amended by the successor agency at any public meeting and
20 shall be subject to the approval of the oversight board as soon as
21 the board has sufficient members to form a quorum.

22 (2) The Department of Finance and the Controller shall each
23 have the authority to require any documents associated with the
24 enforceable obligations to be provided to them in a manner of their
25 choosing. Any taxing entity, the department, and the Controller
26 shall each have standing to file a judicial action to prevent a
27 violation under this part and to obtain injunctive or other
28 appropriate relief.

29 (3) Commencing on May 1, 2012, only those payments listed
30 in the Recognized Obligation Payment Schedule may be made by
31 the successor agency from the funds specified in the Recognized
32 Obligation Payment Schedule. In addition, commencing May 1,

1 2012, the Recognized Obligation Payment Schedule shall supersede
2 the Statement of Indebtedness, which shall no longer be prepared
3 nor have any effect under the Community Redevelopment Law.

4 (4) Nothing in the act adding this part is to be construed as
5 preventing a successor agency, with the prior approval of the
6 oversight board, as described in Section 34179, from making
7 payments for enforceable obligations from sources other than those
8 listed in the Recognized Obligation Payment Schedule.

9 (5) From February 1, 2012, to July 1, 2012, a successor agency
10 shall have no authority and is hereby prohibited from accelerating
11 payment or making any lump-sum payments that are intended to
12 prepay loans unless such accelerated repayments were required
13 prior to the effective date of this part.

14 (b) Maintain reserves in the amount required by indentures,
15 trust indentures, or similar documents governing the issuance of
16 outstanding redevelopment agency bonds.

17 (c) Perform obligations required pursuant to any enforceable
18 obligation.

19 (d) Remit unencumbered balances of redevelopment agency
20 funds to the county auditor-controller for distribution to the taxing
21 entities, including, but not limited to, the unencumbered balance
22 of the Low and Moderate Income Housing Fund of a former
23 redevelopment agency. In making the distribution, the county
24 auditor-controller shall utilize the same methodology for allocation
25 and distribution of property tax revenues provided in Section
26 34188.

27 (e) (1) Dispose of assets and properties of the former
28 redevelopment agency as directed by the oversight board; provided,
29 however, that the oversight board may instead direct the successor
30 agency to transfer ownership of certain assets pursuant to
31 subdivision (a) of Section 34181. The disposal is to be done
32 expeditiously and in a manner aimed at maximizing value. Proceeds
33 from asset sales and related funds that are no longer needed for
34 approved development projects or to otherwise wind down the
35 affairs of the agency, each as determined by the oversight board,
36 shall be transferred to the county auditor-controller for distribution
37 as property tax proceeds under Section 34188.

38 (2) *Notwithstanding paragraph (1), a successor agency may*
39 *retain land of the former redevelopment agency that is a brownfield*
40 *site for the purpose of the remediation or removal of the release*

1 of hazardous substances, as defined in Section 33459, on, under,
2 or from the property, using available financing, funds obtained
3 from a responsible party, existing state or federal grants, or any
4 other funds at the disposal of the successor agency in order to
5 maximize value of the asset. Upon completion of the remediation
6 or removal of hazardous substances from the brownfield site, the
7 successor agency shall dispose of the property pursuant to
8 paragraph (1).

9 (f) Enforce all former redevelopment agency rights for the
10 benefit of the taxing entities, including, but not limited to,
11 continuing to collect loans, rents, and other revenues that were due
12 to the redevelopment agency.

13 (g) Effectuate transfer of housing functions and assets to the
14 appropriate entity designated pursuant to Section 34176.

15 (h) Expeditiously wind down the affairs of the redevelopment
16 agency pursuant to the provisions of this part and in accordance
17 with the direction of the oversight board.

18 (i) Continue to oversee development of properties until the
19 contracted work has been completed or the contractual obligations
20 of the former redevelopment agency can be transferred to other
21 parties. Bond proceeds shall be used for the purposes for which
22 bonds were sold unless the purposes can no longer be achieved,
23 in which case, the proceeds may be used to defease the bonds.

24 (j) Prepare a proposed administrative budget and submit it to
25 the oversight board for its approval. The proposed administrative
26 budget shall include all of the following:

27 (1) Estimated amounts for successor agency administrative costs
28 for the upcoming six-month fiscal period.

29 (2) Proposed sources of payment for the costs identified in
30 paragraph (1).

31 (3) Proposals for arrangements for administrative and operations
32 services provided by a city, county, city and county, or other entity.

33 (k) Provide administrative cost estimates, from its approved
34 administrative budget that are to be paid from property tax revenues
35 deposited in the Redevelopment Property Tax Trust Fund, to the
36 county auditor-controller for each six-month fiscal period.

37 (l) (1) Before each six-month fiscal period, prepare a
38 Recognized Obligation Payment Schedule in accordance with the
39 requirements of this paragraph. For each recognized obligation,

1 the Recognized Obligation Payment Schedule shall identify one
2 or more of the following sources of payment:

3 (A) Low and Moderate Income Housing Fund.

4 (B) Bond proceeds.

5 (C) Reserve balances.

6 (D) Administrative cost allowance.

7 (E) The Redevelopment Property Tax Trust Fund, but only to
8 the extent no other funding source is available or when payment
9 from property tax revenues is required by an enforceable obligation
10 or by the provisions of this part.

11 (F) Other revenue sources, including rents, concessions, asset
12 sale proceeds, interest earnings, and any other revenues derived
13 from the former redevelopment agency, as approved by the
14 oversight board in accordance with this part.

15 (2) A Recognized Obligation Payment Schedule shall not be
16 deemed valid unless all of the following conditions have been met:

17 (A) A draft Recognized Obligation Payment Schedule is
18 prepared by the successor agency for the enforceable obligations
19 of the former redevelopment agency by March 1, 2012. From
20 October 1, 2011, to July 1, 2012, the initial draft of that schedule
21 shall project the dates and amounts of scheduled payments for
22 each enforceable obligation for the remainder of the time period
23 during which the redevelopment agency would have been
24 authorized to obligate property tax increment had such a
25 redevelopment agency not been dissolved, and shall be reviewed
26 and certified, as to its accuracy, by an external auditor designated
27 pursuant to Section 34182.

28 (B) The certified Recognized Obligation Payment Schedule is
29 submitted to and duly approved by the oversight board.

30 (C) A copy of the approved Recognized Obligation Payment
31 Schedule is submitted to the county auditor-controller and both
32 the Controller's office and the Department of Finance and be posted
33 on the successor agency's Internet Web site.

34 (3) The Recognized Obligation Payment Schedule shall be
35 forward looking to the next six months. The first Recognized
36 Obligation Payment Schedule shall be submitted to the Controller's
37 office and the Department of Finance by April 15, 2012, for the
38 period of January 1, 2012, to June 30, 2012, inclusive. Former
39 redevelopment agency enforceable obligation payments due, and
40 reasonable or necessary administrative costs due or incurred, prior

1 to January 1, 2012, shall be made from property tax revenues
2 received in the spring of 2011 property tax distribution, and from
3 other revenues and balances transferred to the successor agency.

4 *SEC. 2. Section 34180 of the Health and Safety Code is*
5 *amended to read:*

6 34180. All of the following successor agency actions shall first
7 be approved by the oversight board:

8 (a) The establishment of new repayment terms for outstanding
9 loans where the terms have not been specified prior to the date of
10 this part.

11 (b) Refunding of outstanding bonds or other debt of the former
12 redevelopment agency by successor agencies in order to provide
13 for savings or to finance debt service spikes; provided, however,
14 that no additional debt is created and debt service is not accelerated.

15 (c) Setting aside of amounts in reserves as required by
16 indentures, trust indentures, or similar documents governing the
17 issuance of outstanding redevelopment agency bonds.

18 (d) Merging of project areas.

19 (e) Continuing the acceptance of federal or state grants, or other
20 forms of financial assistance from either public or private sources,
21 where assistance is conditioned upon the provision of matching
22 funds, by the successor entity as successor to the former
23 redevelopment agency, in an amount greater than 5 percent.

24 (f) (1) If a city, county, or city and county wishes to retain any
25 properties or other assets for future redevelopment activities,
26 funded from its own funds and under its own auspices, it must
27 reach a compensation agreement with the other taxing entities to
28 provide payments to them in proportion to their shares of the base
29 property tax, as determined pursuant to Section 34188, for the
30 value of the property retained.

31 (2) If no other agreement is reached on valuation of the retained
32 assets, the value will be the fair market value as of the 2011
33 property tax lien date as determined by the county assessor.

34 (g) Establishment of the Recognized Obligation Payment
35 Schedule.

36 (h) A request by the successor agency to enter into an agreement
37 with the city, county, or city and county that formed the
38 redevelopment agency that it is succeeding.

1 (i) A request by a successor agency or taxing entity to pledge,
2 or to enter into an agreement for the pledge of, property tax
3 revenues pursuant to subdivision (b) of Section 34178.

4 (j) *The retention of land of the former redevelopment agency*
5 *that is a brownfield site for purposes of remediation or removal,*
6 *pursuant to paragraph (2) of subdivision (e) of Section 34177.*

7 SEC. 3. Section 34181 of the Health and Safety Code is
8 amended to read:

9 34181. The oversight board shall direct the successor agency
10 to do all of the following:

11 (a) Dispose of all assets and properties of the former
12 redevelopment agency that were funded by tax increment revenues
13 of the dissolved redevelopment agency; provided, however, that
14 the oversight board may instead direct the successor agency to
15 transfer ownership of those assets that were constructed and used
16 for a governmental purpose, such as roads, school buildings, parks,
17 and fire stations, to the appropriate public jurisdiction pursuant to
18 any existing agreements relating to the construction or use of such
19 an asset *or to retain land of the former redevelopment agency that*
20 *is a brownfield site for purposes of remediation or removal,*
21 *consistent with paragraph (2) of subdivision (e) of Section 34177.*
22 Any compensation to be provided to the successor agency for the
23 transfer of the asset shall be governed by the agreements relating
24 to the construction or use of that asset. Disposal shall be done
25 expeditiously and in a manner aimed at maximizing value.

26 (b) Cease performance in connection with and terminate all
27 existing agreements that do not qualify as enforceable obligations.

28 (c) Transfer housing responsibilities and all rights, powers,
29 duties, and obligations along with any amounts on deposit in the
30 Low and Moderate Income Housing Fund to the appropriate entity
31 pursuant to Section 34176.

32 (d) Terminate any agreement, between the dissolved
33 redevelopment agency and any public entity located in the same
34 county, obligating the redevelopment agency to provide funding
35 for any debt service obligations of the public entity or for the
36 construction, or operation of facilities owned or operated by such
37 public entity, in any instance where the oversight board has found
38 that early termination would be in the best interests of the taxing
39 entities.

(e) Determine whether any contracts, agreements, or other arrangements between the dissolved redevelopment agency and any private parties should be terminated or renegotiated to reduce liabilities and increase net revenues to the taxing entities, and present proposed termination or amendment agreements to the oversight board for its approval. The board may approve any amendments to or early termination of such agreements where it finds that amendments or early termination would be in the best interests of the taxing entities.

SECTION 1. ~~Section 34177.1 is added to the Health and Safety Code, to read:~~

~~34177.1. (a) Notwithstanding Section 34177, a successor agency may retain land of the former redevelopment agency that is a brownfield site, as defined in Section 9601 of Title 42 of the United States Code, and is either on or immediately adjacent to land previously developed for qualified urban uses as defined in Section 21072 of the Public Resources Code.~~

~~(b) Upon appropriation by the Legislature, notwithstanding Section 34164, a successor agency may develop the land if the associated development project meets one or more of the following requirements:~~

~~(1) The project has been declared a sustainable communities project, pursuant to Section 21155.1 of the Public Resources Code.~~

~~(2) The project is consistent with a transit village plan, as described in Section 65460.2 of the Government Code.~~

~~(3) The project shall be located in an infill opportunity zone, as defined in Section 65088.1 of the Government Code.~~

~~(4) The project meets the requirements of Section 21159.21, 21159.23, or 21159.24 of the Public Resources Code.~~

~~(5) The project promotes higher density infill housing. A project with a density of at least 20 units per acre shall be conclusively presumed to promote higher density infill housing. A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density housing unless the preponderance of the evidence demonstrates otherwise.~~

~~(6) The project is within one-half mile of a major transit stop, as defined in Section 21064.3 of the Public Resources Code.~~

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